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SUBJECT: POLAND: COMPETITION INCREASING IN TELCOM SECTOR

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SUMMARY
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¶1. Competition in Poland's telecommunications sector is increasing rapidly due to the strong new policies of the telcom regulator. By forcing the monopoly telcom company, TPSA, to lease its lines to other telcom providers, consumers finally can choose which voice and internet services they use. Now, with alternatives available, all telcom providers have begun to lower prices and market new services. The future is in broadband internet access, which is growing at 10% a year. The tough hand of the regulator doesn't come without drawbacks, but most agree it's what's needed to finally move the market toward greater competition.

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BACKGROUND
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¶2. Telekomunikacja Polska S.A. (TPSA) is the former national operator and remains a major player in all segments of the market. TPSA was privatized in 1998, with France Telecom as a strategic investor. TPSA still holds over 85% of fixed-line telcom services and owns most of the fixed-line infrastructure. The telcom market was liberalized in 2002 and there are no restrictions on foreign investments across the telecommunications sector. Additionally, licensing has been replaced by a simplified registration procedure at a nominal fee. The new Telecommunications Law of July 16, 2004, which came into force on September 3, 2004, fully harmonizes Polish regulations with EU directives. Although laws are EU compliant and the market is legally open to competition, the sector is still marked by invisible barriers to entry, mostly due to TPSA tactics designed to maintain market position.

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REGULATOR SHOWING TEETH
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¶3. Poland's telecommunications regulator, Urzad Komunikacji Elektronicznej (UKE - Office of Electronic Communications), is responsible for consumer protection as well as increasing competition in the market, which leads to increased quality of services and a lowering of prices. Although the telcom market was deregulated in 2002, there were few real changes in policy until 2006 when Anna Strezynska was appointed as President of UKE. Since Strezynska took office, the changes have been real and frequent.

14. UKE has shown itself to be a strong hand against the monopoly TPSA, not backing down as TPSA finds ways to change conditions, postpone implementation of new regulations, or claims that changes cannot be implemented due to "lack of technical possibilities." Alternative providers agree that they could not have gained market share without such tough moves by UKE and that continued toughness is necessary until the market catches up with EU standards. However, some think that UKE may be moving too fast and not thinking through the implications of some of its decisions, possibly causing prices to fall too rapidly, not enabling the new operators to make enough profit to finance further investments.

15. The most important new regulation imposed by UKE to increase competition forced TPSA to lease lines to other telcom providers. This enables customers to choose from a variety of telcom providers without limitations on location. TPSA is required by law to provide universal coverage, therefore, every home in Poland has a TPSA line connection possibility. With other telcom providers now able to lease those lines from TPSA, telcom companies can compete with TPSA for customers. Following this recent change in law, almost 200,000 customers left TPSA for another provider in the first month.

UKE BATTLE WITH THE EU

16. The EU recently filed a claim against UKE because it believes that UKE is overstepping its authority. The claim is against a recent UKE action that would force TPSA to lower the fee it charges to customers to maintain a TPSA line, while the customer only uses the line to access alternate providers. (NOTE: As an example: If a customer uses the TPSA line into his house only to access broadband internet services via Netia, the customer is still charged 35PLN (\$12) by TPSA. That is the same amount TPSA charges land line customers to keep a phone line functioning. UKE believes if the customer is using no TPSA services, the fee should be lower. END NOTE.) The battle over this one issue has drawn a disproportionate amount of attention compared to its importance in increasing

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competition. Competitors claim that TPSA (which is owned by France Telecom) is lobbying Brussels to avoid paying the huge fine imposed by UKE, just one of the numerous tactics TPSA is using to delay implementing UKE decisions.

FUTURE IN BROADBAND

17. TPSA currently controls 85% of the fixed line telephone market. However, new providers are not focusing their efforts on increasing their share of the fixed line market as fixed line voice services currently have only a 3.5% annual growth rate. The focus of new providers is on broadband internet, which is being provided via the lines leased from TPSA. In the broadband market, TPSA holds only 40% of the market, with cable operators holding another 18% of the market, and telcom competitors filling in the rest. The leading telcom competitors are Tele2, Netia, Dialog and GTS Energis. There is no U.S. investment in any of these companies.

18. The broadband internet market in Poland is experiencing a rapid growth spurt. In 2002 penetration was only 1.24%, by 2004 it reached 3.3%, and in mid 2005 it was 4.2% using EU definitions. However, sector representatives believe that 25% of Poles have internet access in their homes, and 60-70% have some sort of public access. It is estimated that 3 million households in Poland have broadband internet access at home, which accounts for 12 million people, or 25% of the Polish population. (NOTE: The discrepancy is likely due to how broadband access is measured. The EU counts only those who have downstream capacity in excess of 144 kbit/s, while sector representatives are referring to those who have a service that is always on, with no dial-up needed, regardless of speed. END NOTE.) The actual numbers of those with broadband access is difficult to count as numerous local re-sellers of internet service exist. An apartment complex or whole neighborhood may be wired

through one local provider, who has purchased the access/line from one of the major alternate providers. The major alternate provider would count that as only one customer, but the neighborhood provider/re-seller may be providing service to thousands.

¶9. According to sector representatives, the broadband market is growing at 10% a year, with an additional one million people gaining access in their homes. Growth of the broadband market is due in huge part to the aggressiveness of UKE in implementing regulations that encourage competition, which in turn lowered prices. But, it is also due to the falling costs of computers, enabling more Poles to have access at home. Growth will continue as technology improves and customer demand for additional services (eg. video on demand, voice over internet) increases.

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STEADY GROWTH IN MOBILE MARKET
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¶10. Mobile telephone services also continue to grow steadily with 33% growth in 2004, and 26% growth in 2005, as prices continue to slowly fall. A new, fourth, mobile provider will enter the market in March 2007 when the alternative telcom provider Netia will launch its mobile service "Play." Play hopes to gain customers not only through competitive prices, but through the offering of new services.

¶11. The role of the UKE in the mobile market is much more limited, as the sector does not face the monopoly hurdle that is present in the fixed-line market. UKE's main involvement is in offering tenders for new frequencies, which it handles professionally and fairly. The most recent frequency tenders show that mobile providers now have the capacity to offer much more high-tech services than they actually offer, likely due to lack of customer interest.

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COMMENT
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¶12. UKE and its president Strezynska are regularly highlighted in the press for their efforts to increase competition in the telcom market. Most Poles agree that UKE needs to have a heavy hand in dealing with the monopoly TPSA and forcing it to allow more fair competition. UKE's struggle to stay ahead of TPSA's tactics appears to be working, specifically as almost 200,000 customers left TPSA when first given the opportunity to choose an alternative. However, UKE must be careful that it does not overstep its legal boundaries as the EU is watching carefully (likely fueled by TPSA lobbying efforts). The future in broadband internet promises to be one of

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competition for customers through price and services, something desperately needed in Poland.

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